

Summary of Revisions to the Local Rules

Office of the Clerk
United States District Court
District of North Dakota

General Rules	
General Rule 1.1	Divisions and Places of Holding Court <ul style="list-style-type: none"> • Previously Rule 83.1 • Eliminated references to where papers should be mailed and maintained in light of CM/ECF
General Rule 1.2	Office of the Clerk <ul style="list-style-type: none"> • Previously Rule 77.2 • Eliminated requirement to file and maintain documents in Bismarck or Fargo in light of CM/ECF
General Rule 1.3	Attorneys <ul style="list-style-type: none"> • Previously Rule 79.1 • Simplified eligibility requirements • Added requirement that petition include office telephone number, office e-mail address, and a completed ECF registration form • Eliminated requirement that in-state attorneys take an oath in open court, permitting admission by mail for both in-state and out-of-state attorneys • Exempted any attorney representing the United States, or any agency thereof, or any attorney employed by the Office of the Federal Public Defender from admission fees • Eliminated all references to amount of fees • Eliminated all references to the non-appropriated fund; incorporated information into General Rule 1.12 Non-Appropriated Fund • Clarified <i>pro hac vice</i> admission • Eliminated requirement for retained criminal defense counsel to file a written notice of appearance • Clarified process for withdrawal: an attorney must file a motion • Added continuing duties of attorneys to inform clerk of any change of name, business address, telephone number and e-mail address • Added option of temporarily suspending an attorney pending a disciplinary hearing
General Rule 1.4	Student Practice Rule <ul style="list-style-type: none"> • Previously Rule 83.6 • Modified number of required semesters of law school to conform with 2007 Amendments to North Dakota Supreme Court Rules: four semesters required unless enrolled in a clinical education program, then three semesters required • Eliminated admission requirement of obtaining certification from the Dean of the student's law school • Added language from court's 11/15/02 standing order to allow a supervising attorney to supervise more than three students if the supervising attorney is providing supervision to students participating in a clinical education program

General Rule 1.5	Use of Electronic Devices <ul style="list-style-type: none"> • New rule • Incorporated portions of former Rule 77.3 Fair Trial – Free Press regarding photographs and recordings • Added provisions allowing the use of laptop computers in the courtrooms and surrounding areas • Added limitations on the use of wireless communication devices • Set forth authorization for United States Marshals and court security officers to exclude any items from the courtroom and to inspect items
General Rule 1.6	Decorum <ul style="list-style-type: none"> • Previously Rule 83.2 Conduct • Language regarding photographs, recordings, laptop computers, and cell phones is identical to language in General Rule 1.5 • Eliminated provisions regarding opening of court and attorney conduct while in court • This rule was created to have a simple and concise rule to post as public information
General Rule 1.7	Stipulations <ul style="list-style-type: none"> • Previously Rule 83.5 • Eliminated provision regarding extensions of time as redundant
General Rule 1.8	Court Reporter's Transcripts <ul style="list-style-type: none"> • Previously Rule 80.1 • Eliminated redundant statutory language
General Rule 1.9	Fees <ul style="list-style-type: none"> • Previously Rule 4.1 • Eliminated all statutory references as redundant • Added exceptions for prepayment as to parties proceeding <i>in forma pauperis</i> or in exigent circumstances as authorized by court order
General Rule 1.10	Deposit and Withdrawal of Funds with the Court <ul style="list-style-type: none"> • Previously Rule 67.2 • Modified rule to apply to both civil and criminal cases • Added requirement that parties are responsible for supplying the court with the information required by the rule • Added requirement of obtaining a court order including specific information before funds are presented to the clerk for deposit • Added requirement that funds must be sent to the clerk's office in Bismarck for deposit • Added prohibition against third-party checks • Added requirements for withdrawal of funds including the full mailing address for each disbursement check, a completed IRS Form W-9, and the identity of each individual/entity to which a check should be issued
General Rule 1.11	Bonds <ul style="list-style-type: none"> • Previously Rule 65.1 • Clarified requirements for corporate and personal sureties and cash bonds • Eliminated requirement of cost bonds for non-residents • Added process for challenging the sufficiency of a bond and a remedy for insufficiency • Added requirement of affidavit of ownership for all cash and personal property, which when filed will presumptively establish the identity of the owner of the property

General Rule 1.12	Non-Appropriated Fund <ul style="list-style-type: none"> • New rule • Incorporated language deleted from former Rule 79.1 Attorneys
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Civil Rules	
Civil Rule 3.1	Division Assignment <ul style="list-style-type: none"> • Previously Rule 3.1 • Clarified procedure and time for objecting to division assignment • Added provision that failing to object constitutes waiver • Clarified procedure for reassignment/change of place of trial
Civil Rule 4.1	Service of Process and Court Orders <ul style="list-style-type: none"> • Previously Rule 4.2 • Relieved the U.S. Marshal from serving civil process unless required by law or court order • Appointed state sheriffs and deputies to serve civil process without further order of the court • Added requirement that parties retain but not file proof of service of subpoenas • Deleted requirement to file proof of service as redundant of Federal Rules • Deleted prohibition to service by facsimile in light of CM/ECF • Deleted “Service Outside of District” as obsolete due to Fed. R. Civ. P. 4(e)
Civil Rule 5.1	Files and Filing <ul style="list-style-type: none"> • Deleted provision allowing papers to be stricken if a party fails to file after serving • Deleted provision setting forth procedure for withdrawing original records and papers • Added provisions that attorneys must use ECF and that references to “papers” and “in writing” includes electronic documents • Deleted provisions regarding fastening or binding documents, duplicate originals, copies for service, corrections, and proposed orders. • Modified font size from 11 point to 12 point and all margins to 1 inch • Modified reference to filing proffered pleadings as “attachments” rather than “lodging documents” • Deleted provisions regarding filings in Social Security cases as unnecessary • Modified provisions regarding sealed documents and files to reference the “Administrative Policies Governing Electronic Filing and Service”
Civil Rule 6.1	Time <ul style="list-style-type: none"> • New rule • Clarified the calculation of time in conjunction with CM/ECF and specified that the 3 days for mailing applies when service is made electronically

Civil Rule 7.1	<p>Motions</p> <ul style="list-style-type: none"> • Combined Rule 7.1 Motions and Rule 7.2 Briefs into one rule • Eliminated provision allowing memoranda in support of motions to be filed 5 days after the motion; memoranda must be filed contemporaneously with a motion • Changed length of memorandum in support of a dispositive motion and response to a dispositive motion from 25 to 40 pages, of which no more than 25 pages may be argument, and eliminated the requirement of filing a statement of material fact • Changed length of memorandum in support of a non-dispositive motion and response to a non-dispositive motions from 15 to 20 pages • Increased the length of replies to dispositive motions from 7 to 10 pages • Added tables setting forth the deadlines and time limits for both dispositive and non-dispositive motions • Deleted as unnecessary the provision that motions must be filed by the date set by the pretrial order • Deleted provisions requiring proposed orders be separate instruments as unnecessary and contrary to “Administrative Policy Governing Electronic Filing and Service” • Added requirement that a complete copy of a deposition or other transcript be filed • Added requirement that each exhibit must be filed as a separate attachment with a description and prohibition that exhibits already on file must not be re-filed • Added provision that if a party chooses to include a table of contents or table of authorities, these pages are excluded from the page limitations • Added requirement that all filings must comply with the “Administrative Policy Governing Electronic Filing and Service” • Added provision that parties may file a motion for oral argument and that a brief in support of such motion is limited to 2 pages • Added provisions for filing Amicus Curiae briefs modeled upon Fed. R. App. P. 29 • Deleted requirement of filing trial memorandums
Civil Rule 16.1	<p>Civil Case Management</p> <ul style="list-style-type: none"> • Added references to 28 U.S.C. § 2241 (Habeas Corpus, generally); 25 U.S.C. § 1303 (Indian Habeas); actions by the USA to recover benefit payments; actions to enforce or quash administrative summons; foreclosure actions; and mandamus actions (28 U.S.C. § 1361) • Deleted all references to discovery and incorporated language into Civil Rule 26.1 Civil Discovery • Deleted provision allowing the court to dismiss cases pending without activity for one year as unnecessary • Deleted provision regarding hearing on injunctions and temporary restraining orders as unnecessary
Civil Rule 16.2	<p>Alternative Dispute Resolution</p> <ul style="list-style-type: none"> • Deleted references to mini-trials and summary jury trials

Civil Rule 26.1	Civil Discovery <ul style="list-style-type: none"> • Updated language regarding exemptions from disclosure to list only those actions not set forth in Rule 26 • Incorporated language regarding discovery deleted from Rule 16.1 • Added provision that for cases exempt from a Fed. R. Civ. P. 16(b) conference and cases with no scheduling order, discovery must be complete 30 days prior to trial • Added provision requiring parties to set out an interrogatory or request in full, followed by their response • Added provision encouraging parties to provide electronic courtesy copies of discovery requests • Added prohibition on filing discovery materials
Civil Rule 37.1	Civil Discovery Motions <ul style="list-style-type: none"> • New rule • Added obligation of parties to confer prior to filing a discovery motion • Added requirement of a telephone conference with magistrate judge if one is ordered in the pretrial order • Added requirement of a certification of compliance with obligation to confer • Added possibility of sanctions for failure to comply
Civil Rule 41.1	Dismissal of Settled Civil Cases <ul style="list-style-type: none"> • New rule • Added provision allowing the court to dismiss the case if parties fail to file closing documents within 30 days of notice of settlement; unless the United States is a party, then 60 days • Added provision for parties to seek reinstatement
Civil Rule 43.1	Exhibits <ul style="list-style-type: none"> • Modified custody of exhibits: clerk is to retain custody of exhibits unless otherwise ordered by the court • Added requirement that notice be given to all parties regarding return of exhibits and that parties sign a receipt when exhibits are returned • Clarified provisions regarding sensitive exhibits and added requirement that a party take custody of all sensitive exhibits at the conclusion of a hearing or trial • Deleted provision regarding reservation of power to rule as unnecessary
Civil Rule 47.1	Civil Jury Trials <ul style="list-style-type: none"> • Clarified the sections regarding jury size and peremptory challenges • Deleted provisions regarding examination of jurors as redundant of Fed. R. Civ. P. 47 • Eliminated time restriction of one hour for arguments and added a provision setting forth the court's discretion to limit statements or arguments • Deleted all references to jury instructions
Civil Rule 51.1	Civil Jury Instructions <ul style="list-style-type: none"> • New rule incorporating language eliminated from Rule 47.1 Civil Jury Trials • Increased deadline from 5 days prior to trial to 7 days prior to trial • Added provisions allowing parties to designate pattern jury instructions by number rather than by full text if no modifications are requested and requiring parties to identified an instruction as modified, if a pattern instruction in modified • Eliminated requirement of jointly prepared instructions and briefing of discrepancies

Civil Rule 54.1	Costs and Attorney's Fees <ul style="list-style-type: none"> • Eliminated requirement of stipulated bills of costs and obligation to confer • Added requirement of filing a verified statement of costs containing a detailed breakdown of each item and a citation to the statutory or other legal authority providing for recovery of the costs • Added provision regarding taxation of costs on appeal • Added provision that requirement for costs applies to attorney's fees, unless fees are sought against the United States
Civil Rule 72.1	United States Magistrate Judges <ul style="list-style-type: none"> • Added duties in civil cases (B11-B14) • Added provision that notwithstanding an initial decision not to consent to a magistrate judge, the parties may later consent • Removed all references to criminal matters and moved to Criminal Rule 59.1

Criminal Rules	
Criminal Rule 6.1	Grand Juries <ul style="list-style-type: none"> Previously Rule 23.2 CR
Criminal Rule 23.1	Criminal Jury Trials <ul style="list-style-type: none"> Clarified the sections regarding jury size and peremptory challenges Deleted provisions regarding examination of jurors as redundant of Fed. R. Crim. P. 24 Eliminated time restriction of one hour for arguments and added provision setting forth the court's discretion to limit statements or arguments Deleted all references to jury instructions
Criminal Rule 26.1	Exhibits <ul style="list-style-type: none"> New Rule Modified custody of exhibits: clerk is to retain custody of exhibits unless otherwise ordered by the court Added requirement that notice be given to all parties regarding return of exhibits and that parties sign a receipt when exhibits are returned Clarified provisions regarding sensitive exhibits and added requirement that a party take custody of all sensitive exhibits at the conclusion of a hearing or trial Deleted provision regarding reservation of power to rule as unnecessary
Criminal Rule 30.1	Criminal Jury Instructions <ul style="list-style-type: none"> New rule incorporating language eliminated from Rule 23.1 Criminal Jury Trials Increased deadline from 5 days prior to trial to 7 days prior to trial Added provisions allowing parties to designate pattern jury instructions by number rather than by full text if no modifications are requested and requiring parties to identified an instruction as modified, if a pattern instruction is modified
Criminal Rule 32.1	Presentence Investigations and Sentencing Memoranda <ul style="list-style-type: none"> Deleted references to the duties of the Probation and Pretrial Services Officers as redundant of statute Deleted provisions setting forth "Time" as redundant of Fed. R. Crim. P. 32 and Speedy Trial Plan Clarified provisions regarding confidentiality of PSIs and requests for disclosure of PSIs Deleted provisions regarding release of juvenile information as redundant of 18 U.S.C. § 5038(a) Deleted provisions regarding Pretrial Services as redundant of 18 U.S.C. § 3154 Deleted provisions regarding drug testing and CJA Form 23 as unnecessary Added language setting deadlines if parties wish to file sentencing memoranda or responses: sentencing memoranda must be filed 5 days prior to sentencing and responses must be filed 2 days prior to sentencing
Criminal Rule 45.1	Time <ul style="list-style-type: none"> New rule Clarified the calculation of time in conjunction with CM/ECF and specified that the 3 days for mailing applies when service is made electronically

Criminal Rule 47.1	Motions <ul style="list-style-type: none"> • New rule specific to motions in criminal cases • Incorporated relevant provisions of former rules 7.1 Motions and 7.2 Briefs • Eliminated provision allowing memoranda in support of motions to be filed 5 days after the motion; memoranda must be filed contemporaneously with motion • Changed length of memorandum in support of a motion and response to a motions from 15 to 20 pages • Added tables setting forth the deadlines and time limits for motions • Deleted provision that motions must be filed by the date set by the pretrial order as unnecessary • Deleted provisions requiring proposed orders be separate instruments as unnecessary and contrary to “Administrative Policy Governing Electronic Filing and Service” • Added requirement that a complete copy of a deposition or other transcript be filed • Added requirement that each exhibit must be filed as a separate attachment with a description and prohibition that exhibits already on file must not be re-filed • Added provision that if a party chooses to include a table of contents or table of authorities, these pages are excluded from the page limitations • Added requirement that all filings must comply with the “Administrative Policy Governing Electronic Filing and Service” • Added provision that parties may file a motion for oral argument and that a brief in support of such motion is limited to 2 pages
Criminal Rule 49.1	Files and Filing <ul style="list-style-type: none"> • New rule specific to criminal cases • Incorporated relevant provisions of former rule 5.1 • Deleted provision allowing papers to be stricken if a party fails to file after serving • Deleted provision setting forth procedure for withdrawing original records and papers • Added provisions that attorneys must use ECF and that references to “papers” and “in writing” includes electronic documents • Deleted provisions regarding fastening or binding documents, duplicate originals, copies for service, corrections, and proposed orders. • Modified font size from 11 point to 12 point and all margins to 1 inch • Modified reference to filing proffered pleadings as “attachments” rather than “lodging documents” • Deleted provisions regarding filings in Social Security cases as unnecessary • Modified provisions regarding sealed documents and files to reference the “Administrative Policies Governing Electronic Filing and Service” • Language is identical to Civil Rule 5.1 Files and Filing
Criminal Rule 59.1	United States Magistrate Judges <ul style="list-style-type: none"> • Added duties in criminal cases (B9 - B13) • Added provision that notwithstanding an initial decision not to consent to a magistrate judge, the parties may later consent • Removed all references to civil matters and moved to Civil Rule 72.1

Deleted Rules	
Rule 5.2	Three Judge Cases
Rule 26.1	Exemptions from Disclosures
Rule 27.1	Depositions
Rule 65.2	Service of Injunctive Order
Rule 66.1	Receiverships
Rule 67.1	Qualified Settlement Funds
Rule 77.1	Orders, Findings, and Judgments
Rule 77.3	Fair Trial - Free Press
Rule 79.2	Mandates
Rule 83.3	Contempt Procedure (Civil)
Rule 83.4	Guardians Ad Litem